

APPEAL NO. 023293
FILED FEBRUARY 20, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on November 20, 2002. With respect to the sole disputed issue before him, the hearing officer determined that as a result of her _____, compensable injury to her lumbar spine, the respondent (claimant) had disability from July 1, 2001, through November 20, 2002. The appellant (carrier) appeals the determination on sufficiency of the evidence grounds. The claimant responds, urging affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant had disability as a result of her _____, compensable low back injury, from July 1, 2001, through November 20, 2002. Under the 1989 Act, the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The medical records support the hearing officer's determination in this regard, and he found the claimant unable to obtain and retain employment at her preinjury wage during that period. Section 401.011(16).¹ In addition, while there was evidence supporting that the claimant had numerous preexisting conditions, the hearing officer remarked that it was clear that the claimant sustained further damage or harm to her low back as a result of the compensable injury.² The hearing officer was acting within his province as the fact finder in resolving the conflicting evidence in favor of the claimant and nothing in our review of the record demonstrates that the hearing officer's determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

¹ While the hearing officer incorrectly references the legal standard for disability in his Statement of the Evidence as the claimant being unable to return to her "pre-injury duties," he correctly defines disability in his Finding of Fact No. 2, and we affirm on those grounds.

² We note here that although the carrier attempts to challenge whether the claimant sustained a compensable injury at all on appeal, it stipulated to the compensability of her injury, and compensability was not at issue at the CCH.

The hearing officer's decision and order is affirmed.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**GEORGE MICHAEL JONES
9330 LBJ FREEWAY, SUITE 1300
DALLAS, TEXAS 75243.**

Terri Kay Oliver
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Michael B. McShane
Appeals Panel
Manager/Judge